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Paper No. 39

ENZO BIOCHEM, INC.  
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NEW YORK NY 10022

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**FEB 05 2010**

In re Application of :  
Liu et al. :  
Application No. 08/822,963 : ON PETITION  
Filed: March 21, 1997 :  
Atty Docket No. ENZ-56 :

This is a decision on the petition filed, August 4, 2009, requesting that the order to show cause<sup>1</sup> mailed on June 4, 2009 be vacated.

The record of this application and petitioners' response to the order to show cause have been reviewed and considered. The record of this application does not indicate that the abandonment of the application occurred despite the exercise of reasonable due care or diligence on the part of the applicant. See *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912), and *Ex parte Pratt*, 1887 Dec.Comm'r Pat. 31, 32-33 (1887). The petition to revive this application, however, is not under the "unavoidable" standard of 35 U.S.C. § 133 and 37 CFR 1.137(a), but is under the "unintentional" standard of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). Therefore, the Office of the Commissioner for Patents is terminating the inquiry initiated by the order to show cause without vacating or otherwise disturbing the decision reviving the above-identified application.

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<sup>1</sup> The order requested petitioners to show cause why the decisions mailed June 1, 1999 and July 23, 2003 in application No. 08/822,963 reviving the application should not be vacated.

The petition is granted to the extent that the Office of the Commissioner for Patents will not vacate or otherwise disturb the decisions reviving the above-identified application.

As this inquiry has been terminated without vacating or otherwise disturbing the decision reviving the above-identified application, petitioners' request that the order to show cause be "vacated" is dismissed as moot.

Telephone inquiries regarding this decision may be directed to Senior Petitions Attorney Nancy Johnson at 571-272-3219.

A handwritten signature in cursive script, appearing to read "Charles Pearson for".

Charles Pearson  
Director  
Office of Petitions